

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

BRENDA ROSADO, on behalf of J.R.

Plaintiff : CIVIL ACTION NO. 3:18-2127
v. : (JUDGE MANNION)
CY A. BERRYHILL :
Defendant :
:

ORDER

Presently before the court is the report and recommendation of Magistrate Judge Susan E. Schwab (“Report”) ([Doc. 5](#)), which recommends that the plaintiff Brenda Rosado’s (“Rosado”) complaint ([Doc. 1](#)) be dismissed and that Rosado be granted leave to file an amended complaint. No objections have been filed to the Report. Based on the court’s review of the record in this matter, the Report is adopted in its entirety; Rosado’s complaint ([Doc. 1](#)) is dismissed, and Rosado is granted leave to file an amended complaint.

When no objections are made to the report and recommendation of a magistrate judge, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed.R.Civ.P. 72(b); advisory committee notes; see also

Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. L.R. 72.31.

On November 5, 2018, Rosado filed a complaint on behalf of her daughter “J.R.” (Doc. 1; see Doc. 2 (Rosado states she is filing on behalf of her minor daughter “J.R.”)). “In general, a parent who is not a lawyer cannot represent his or her child in federal court.” (Doc. 5, at 2-3). “A parent, however, may represent his or her minor child in [Social Security] appeals if after an appropriate inquiry, the [c]ourt finds that the parents has established a ‘personal stake’ in the litigation and competency to handle the matter.” (Doc. 5, at 3) (citations omitted). The court agrees with Judge Schwab that Rosado’s complaint (Doc. 1) “is wholly lacking in facts showing that Ms. Rosado has a sufficient interest in this litigation and that she is competent in this matter.” (Doc. 5, at 3). Without more specific details, it is impossible for the court to determine Rosado’s interest and competency.

The court has reviewed the entire Report of Judge Schwab and agrees with the sound reasoning, which led her to her recommendation. As such, the court adopts the Report of Judge Schwab as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1)** The Report of Judge Schwab ([Doc. 5](#)) is **ADOPTED IN ITS ENTIRETY**;
- (2)** Rosado's complaint ([Doc. 1](#)) is **DISMISSED**;
- (3)** Rosado is granted leave to file an amended complaint on or before **May 21, 2019**; and
- (4)** This case is **REMANDED** to Judge Schwab for further proceedings.

s/ Malachy E. Mannion

MALACHY E. MANNION
United States District Judge

DATE: May 8, 2019

18-2127-01